

REMARKS

Claims 1-69 are pending in the application. Claims 1, 41, 49, 51, 53, 57, 58, and 62 have been currently amended.

Claim Rejections – 35 USC 101& 112

The Examiner rejected claims 1-69 under 35 USC 101 as not limited to practice in the technological arts. The Examiner further argued that none of the claims is limited to practical applications in the technological arts and that the Applicant's "input data" references are just such abstract ideas.

The Examiner further more argued that the Applicant neither cited a specific result to define a useful, concrete and tangible result, nor specified the associated practical application with the kind of specificity the Federal Circuit used in *AT&T Corp v. Excel Communications Inc.*

The Examiner further rejected all claims under 35 USC 112, because current case law requires such a rejection if a 35 USC 101 rejection is given. Specifically the Examiner noted that if the Applicant has not in fact disclosed a practical application under 35 USC 101, the Applicant also fails to disclose how to practice the undisclosed practical application.

The present application teaches *a computer* invention which is directed to practical implementation, namely – strategic *industrial* process control, where the input is *representative of the industrial process* and a tangible result comprises output data which is *usable for predicting the process output for a given setting*.

The presently amended claims 1, 41 and 62 now define a computer implementing a strategy method for *industrial* process control, where the input is *representative of the industrial process* and a tangible result comprises output data which is *usable for predicting the process output for a given setting*, the method including applying settings for the process to achieve a desired output therefrom.

The previously presented claim 49 and 57 defines an article of manufacture *including a computer usable medium* having computer readable program code embodied therein, for performing strategic *industrial* process control at a predefined process juncture, where the input is *representative of the industrial process* and a tangible result comprises output data which is *usable for predicting the process output for a given setting*. Wherein the article of manufacture includes an output unit for

using a set of combinations to apply settings to the industrial process, so as to produce a desired output

The presently amended claim 51 and 58 define *a computer comprising a program storage* device tangibly embodying a program of instructions executable by the computer to perform method steps for performing strategic *industrial* process control, where the input is *representative of the industrial process* and a tangible result comprises output data which is *usable for predicting the process output for a given* setting. The method includes, for a predetermined process juncture, predicting the process output according to data clusters, therewith to define settings for the process to produce a desired output therefrom

The presently amended claim 53 defines a *computer system* for performing strategic *industrial* process control at a predefined process juncture, where the input is *representative of the industrial process* and a tangible result comprises output data which is *usable for predicting the process output for a given setting*. The computer system includes an output unit for using data clusters to provide settings to the industrial process to achieve a desired output.

It is thus respectfully believed that all currently presented independent claims are directed to statutory subject matter and should be allowed.

The remaining claims mentioned in this section of the Office Action are believed to be allowable as being dependent on an allowable main claim. No new matter is added by the present amendments.

The currently presented set of claims is further amended to as to define a more generalized prediction model rather than a specific discretization model as previously defined.

All of the matters raised by the Examiner have been dealt with and are believed to have been overcome. In view of the foregoing, it is respectfully submitted that all the claims now pending in the application are allowable over the cited reference.

An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

Martin O. Moynihan

Martin Moynihan

Registration No. 40,338

Date: October 9, 2005